



***Substitute House Bill No. 6327***

***Public Act No. 09-23***

***AN ACT CONCERNING SURETY BONDS FOR DEBT ADJUSTERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36a-664 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) (1) Except as provided in subdivision (2) of this subsection, no such license, and no renewal thereof, shall be granted unless the applicant has filed a surety bond with the commissioner written by a surety authorized to write such bonds in this state, provided any applicant that files applications for licenses for more than one location shall file a single bond. [For] Except as provided in this subdivision, for every applicant, the principal amount of the bond shall be the greater of (A) forty thousand dollars, or (B) (i) twice the amount of the [highest total] average daily balance of the payments received by the applicant from Connecticut debtors in connection with the applicant's debt adjustment activity [in any month] during the preceding twelve months ending July thirty-first of each year or (ii), in the case of an applicant that has acquired the business of a predecessor debt adjuster, the lesser of the amount of the predecessor's debt adjustment activity during such preceding period or one million dollars. The commissioner may require a larger bond if the commissioner determines that a licensee has engaged in a pattern of conduct

***Substitute House Bill No. 6327***

resulting in bona fide consumer complaints of misconduct and that such increased bond is necessary for the protection of consumers, or may increase or decrease the amount of the bond based upon the applicant's or licensee's financial condition, business plan and the actual or estimated aggregate amount of payments and fees paid by Connecticut debtors to such applicant. Each licensee shall submit to the commissioner, [evidence that the bond complies with the provisions of this subdivision] by September first of each year, a report containing information on the average daily balance of the payments received by the licensee from Connecticut debtors during the preceding twelve months ending July thirty-first of each such year. The report shall be subscribed and affirmed as true by the licensee and shall be in a form prescribed by the commissioner.

(2) If a licensee or applicant for renewal of a license establishes that such licensee or applicant is unable to comply with the bond required by subdivision (1) of this subsection, it [may submit to the commissioner, by July first, a request for an alternative to such requirement. If the commissioner finds that the financial responsibility, character, reputation, integrity and general fitness of the applicant so warrant, the commissioner may permit the applicant or licensee to supplement the maximum surety bond that] shall file a bond for the highest principal amount it can obtain, provided [the principal amount of the surety bond] such amount shall be a minimum of forty thousand dollars, [with such other bonds or insurance policies, in such amounts, for such period and subject to such conditions as the commissioner may approve. Any such bond or insurance policy shall be written or issued by a surety or insurance company authorized to write such bonds or sell such insurance in this state] and the licensee or applicant for renewal shall, in lieu of the balance of the required amount of the bond, deposit a sum equal to the amount of the bond required by subdivision (1) of this subsection, less the amount of the bond filed with the commissioner, in cash or cash equivalents, with such bank,

***Substitute House Bill No. 6327***

out-of-state bank that has a branch in this state, Connecticut credit union or federal credit union as such applicant or licensee may designate and the commissioner may approve, and subject to such conditions as the commissioner deems necessary for the protection of consumers and in the public interest. No licensee or applicant shall make such deposit until the depository institution and the licensee or applicant executes a deposit agreement satisfactory to the commissioner. The deposit agreement shall pledge the amount deposited to the commissioner and provide that the depository institution shall not release any of the moneys pledged without the authorization of the commissioner. The amount deposited shall secure the same obligation as would a surety bond filed under this section and shall be held at such banks or credit unions to cover claims during the period the license remains in full force and effect and the succeeding two years after such license has been surrendered, revoked or suspended or has expired. The licensee or applicant may collect interest on such deposit in accordance with its deposit agreement. The deposits made pursuant to this section shall be deemed, by operation of law, to be held in trust for the benefit of any debtor, who may be damaged by failure of a licensee or applicant to perform any written agreements or by the wrongful conversion of funds paid to a licensee in the event of the bankruptcy of the licensee, and shall be immune from attachment by creditors or judgment creditors.

(3) The form of any surety bond submitted pursuant to this section shall be approved by the Attorney General. Any surety bond filed under this section shall be conditioned upon the licensee faithfully performing any and all written agreements with debtors, truly and faithfully accounting for all funds received by the licensee in the licensee's capacity as a debt adjuster, and conducting such business consistent with the provisions of sections 36a-655 to 36a-665, inclusive. Any debtor who may be damaged by failure to perform any written agreements, or by the wrongful conversion of funds paid to a licensee,

***Substitute House Bill No. 6327***

may proceed on any such surety bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on any such surety bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50. The proceeds of any bond, [or insurance policy,] even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. Any bond [or insurance policy] required by this section shall be maintained during the entire period of the license granted to the applicant, and the aggregate liability under any such bond [or insurance policy] shall not exceed the principal amount of the bond or the limit of liability. [of the insurance policy.]

(b) The surety [or insurance company] shall have the right to cancel any bond [or insurance policy written or issued] filed under subsection (a) of this section at any time by a written notice to the licensee, stating the date cancellation shall take effect. Such notice shall be sent by certified mail to the licensee at least thirty days prior to the date of cancellation. No such bond shall be cancelled unless the surety [or insurance company] notifies the commissioner in writing not less than thirty days prior to the effective date of cancellation. The commissioner shall automatically suspend the license on the date the cancellation takes effect, unless the bond [or insurance policy] has been replaced or renewed. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51.

(c) No licensee shall use, attempt to use or make reference to, either directly or indirectly, any word or phrase which states or implies that the licensee is endorsed, sponsored, recommended [,] or bonded [or

***Substitute House Bill No. 6327***

insured] by the state.

Approved May 8, 2009